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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/799,113	03/12/2004	Charles J. Nye JR.	03-099	8234

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EXAMINER

GORDON, STEPHEN T

ART UNIT PAPER NUMBER

3612

DATE MAILED: 06/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/799,113

Applicant(s)

NYE, CHARLES J.

Examiner

Stephen Gordon

Art Unit

3612

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 April 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) 11-14 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 and 15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 March 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 3-12-04.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.



DETAILED ACTION

1. Claims 11-14 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention. Applicant timely traversed the restriction (election) requirement in the reply filed on 4-25-05.
2. Applicant's election with traverse of the species of figure 1 in the reply filed on 4-25-05 is acknowledged. The traversal is on the ground(s) that the species of figures 1 and 2 should be combined and that the species of figure 12 should be rejoined with the elected embodiment. Regarding the figure 1 and 2 embodiments, the examiner agrees to rejoin these. Regarding the rejoining of the figure 12 embodiment, applicant's arguments are not found persuasive because while it may be that claim 1 is generic to at least the embodiments of figures 1 and 12, such does not preclude separation of these embodiments into distinct inventions for purposes of election requirement. These embodiments define potentially patentably distinct material and species separation is warranted.

The requirement is still deemed proper and is therefore made FINAL.

3. It is requested that applicant cancel at least non-elected claim 14 in response to this action to facilitate the issue process if the application is ultimately allowed.
4. The drawings are objected to because they are informal (i.e. rough hand drawn characters, unclear photographs etc). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being

amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

5. Applicant should note, while a complete action on the merits for withdrawn claims 12 and 13 is not contained herein, in an effort to expedite prosecution, it is noted that these claims contain significant problems under section 112 – second paragraph. If it is applicant's intent that claims 11-13 be rejoined with the application after finding of allowance of a generic independent claim from which they depend, it is requested that applicant review these claims in their entirety and amend accordingly such that they conform to the requirements of section 112.

6. The disclosure is objected to because of the following informalities: in paragraph 27 – line 1, "third" should apparently be ~~second~~. In paragraph 33 – line 1, "12B" should be ~~12B~~. In paragraph 37, "FIG. 1" in line 10 and "FIG. 2" in line 11 should be ~~FIG. 2~~ and ~~FIG. 1~~ respectively. In paragraph 44 – line 7, "FIG. 11" should be –

FIG. 6--. In paragraph 46, "FIG. 14" in line 6 and "630" in line 7 should be --FIG. 11-- and --1830--respectively.

Appropriate correction is required.

7. Claims 3, 5-10, and 15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 3, line 3 is confusing as it is not clear that the disclosed invention is "axially aligned" as recited.

Claim 5, "said tow push bars" is confusing and should apparently be --said two pushbars--. Additionally, "each side" in the last line lacks clear antecedent basis and could be written as --a side--for clarity.

Claim 6, "said non-tow position" in line 3 lacks clear antecedent basis and could be written as --a non-tow position--for clarity. Note term additionally appears in the last line.

Claim 7, "said tow push bars" is confusing and should apparently be --said two pushbars--.

Claim 8, "said handlebar" in line 1 lacks antecedent basis. Note this term additionally appears in claims 9 and 10. The term "each side" in line 3 lacks clear antecedent basis and could be written as --a side--for clarity. Finally, line 3 is generally awkward, and --with--could be inserted before "one" of the line to correct the claim in this regard.

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9. Claims 1, 4-6, and 8-10, as best understood, are rejected under 35 U.S.C. 102(b) as being anticipated by Keech.

Note dump trailer with body 20+, push bar 60, adjustable tow bar 70, and pivotally attached push bar first end (at 62).

Claim 4, the bar is connected to a front side as broadly claimed.

Claim 5, the angled out fixed portions of the tow bar assembly as viewed in figure 3A are deemed to define forked push bars as broadly claimed and as best understood.

Claim 6, at least elements 64 and 66 define first and second latch elements as broadly claimed and as best understood.

Claims 8-10, at least elements 54+ define a handle bar and work surface as broadly claimed and as best understood.

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Keech in view of Pietroroia.

Art Unit: 3612

Keech teaches all of the claimed features as discussed regarding claim 1 above but fails to teach use of an auxiliary wheel as defined.

Peitroroia teaches a tow bar attached wheel 14 for use in support.

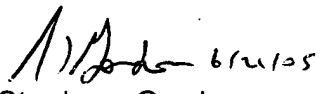
In order to facilitate easier handling of the trailer when unhitched, it would have been obvious to one of ordinary skill in the art to provide an auxiliary wheel attached to the tow bar assembly of Keech in view of the teachings of Peitroroia.

12. Claims 3, 7, and 15 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen Gordon whose telephone number is (571) 272-6661. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3612

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Stephen Gordon
Primary Examiner
Art Unit 3612

stg